DAVID H. REICHENBERG
WILSON SONSINI GOODRICH & ROSATI, P.C.
1301 Avenue of the Americas, 40th Floor
New York, New York 10019
Phone: (212) 999-5800
Fax: (212) 999-5899
Email: dreichenberg@wsgr.com

Counsel for Google Inc.

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

RACQUEL K. MCPHERSON, *pro se*, Plaintiff, v. GOOGLE INC., Defendant.	Case No. 2:17-cv-03418 **NOTICE OF REMOVAL**

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. §§ 1331, 1332, 1343, 1367, 1441, and 1446, Defendant Google Inc. ("Google") hereby removes the above-captioned action from the Supreme Court of the State of New York for the County of Nassau, in which it is now pending, to the United States District Court for the Eastern District of New York. The grounds for removal are as follows:

BACKGROUND

1. On or about May 4, 2017, Plaintiff Racquel K. McPherson filed a Summons with Notice and Complaint (the "Complaint") against Google in the Supreme Court of the State of New York for the County of Nassau (the "New York Supreme Court"), entitled *Racquel K McPherson v. Google Inc.*, Index No. 17002517 (the "State Court Action").

2. Although Google has not been properly served with the Complaint in this action,[1] it received a copy via U.S. Priority Mail at its offices in Mountain View, California, on May 8, 2017. The mailing was addressed not to Google's registered agent, but to "Google Inc." generally, in care of Eric Schmidt, the Executive Chairman of Google's parent company, Alphabet Inc. A true and correct copy of the Complaint is attached hereto as Exhibit A.

3. The Complaint contains a hodgepodge of allegations that fail to state any cause of action. Nonetheless, the Complaint provides that "[t]he lawsuit is brought pursuant to violations of the Civil Right[s] Act of 1964" for "Discrimination." Plaintiff also appears to be asserting claims based on state law – namely, defamation and infliction of emotional distress – and seeks (1) damages in the amount of $500 billion plus fees and costs; (2) punitive damages; and (3) an injunction "prohibiting the Defendants and all other agents of NYS and USPS from conducting surveillance of any sort against Ms. McPherson without first obtaining a warrant in compliance with the law[.]" Ex. A.

4. Based on Plaintiff's allegations filed with the New York Supreme Court, and for the reasons discussed below, Google is timely removing the State Court Action to this Court pursuant to 28 U.S.C. §§ 1331, 1332, 1343, 1367, 1441, and 1446.

GROUNDS FOR REMOVAL

5. This Court has jurisdiction over this action based on diversity of citizenship.

6. Furthermore, this Court has jurisdiction over this action based on the existence of a federal question under the Civil Rights Act of 1964.

[1] The mailing did not include a "statement of service by mail" or an "acknowledgement of receipt" form required for completion of service under C.P.L.R. § 312-a. Accordingly, Plaintiff's service of the Complaint was improper under New York law. Plaintiff's mailing likewise failed to meet the requirements of Fed. R. Civ. P. 4.

7. Under 28 U.S.C. § 1441(a), "[e]xcept as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending."

8. This Court has original jurisdiction over this action pursuant to 28 U.S.C. 1332. Under 28 U.S.C. 1332(a)(1), "[t]he district courts shall have original jurisdiction of all civil actions where the matter in controversy exceeds the sum or value of $75,000, exclusive of interest and costs, and is between … (1) citizens of different States[.]" 28 U.S.C. 1332(c)(1) further states that "a corporation shall be deemed to be a citizen of every State and foreign state by which it has been incorporated and of the State or foreign state where it has its principal place of business[.]" Here, Plaintiff is a citizen of New York. Ex. A at 1. Defendant is a Delaware corporation with its principal place of business in Mountain View, California. *TradeComet.com LLC v. Google, Inc.*, 647 F.3d 472, 473 (2d Cir. 2011). Furthermore, Plaintiff seeks $500 billion in damages in this action. Ex. A at 2-3. Thus, the requirements of 28 U.S.C. § 1332 have been satisfied.

9. In addition, this Court has original jurisdiction over Plaintiff's claim for discrimination (which arises under the Civil Rights Act of 1964, 42 U.S.C. § 2000a *et seq.*) pursuant to 28 U.S.C. §§ 1331 and 1343. Under 28 U.S.C. § 1331, "[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." Under 28 U.S.C. § 1343(a)(4), the district courts have original jurisdiction "of any civil action authorized by law to be commenced by any person . . . [t]o recover damages

or to secure equitable or other relief under any Act of Congress providing for the protection of civil rights, including the right to vote."

10. This Court also has supplemental jurisdiction over Plaintiff's claims for defamation and infliction of emotional distress pursuant to 28 U.S.C. § 1367(a), which states that "in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution." Here, Plaintiff's claims all arise from the same allegation that Google "neglected to correct the FAKE NEWS" that was "posted on [her] Google Page[.]" Ex. A at 1. As such, based on Plaintiff's filings in the State Court Action, the state law claims of defamation and infliction of emotional distress form part of the same case or controversy as the discrimination claim over which this Court has original jurisdiction.

VENUE AND PROCEDURAL REQUIREMENTS

11. Venue lies in the United States District Court for the Eastern District of New York because Plaintiff's State Court Action was filed and is pending in the Supreme Court of the State of New York for the County of Nassau, which is within this federal judicial district and division. *See* 28 U.S.C. § 1446(a).

12. This Notice of Removal is timely because even if service had been proper (*see supra* at n.1), no more than 30 days have elapsed since Google was served with the Complaint on May 8, 2017. *See* 28 U.S.C. § 1446(b)(1).

13. Upon receiving filed-marked copies of this Notice of Removal and Google's accompanying filings, such documents will be served upon Plaintiff and filed with the Clerk of the New York Supreme Court. *See* 28 U.S.C. § 1446(d).

WHEREFORE, as all requirements of 28 U.S.C. §§ 1441 and 1446 have been met, Google respectfully requests that the action titled *Racquel K McPherson v. Google Inc.*, Index No. 17002517, pending in the Supreme Court of the State of New York for the County of Nassau, be removed to this Court, and that this Court exercise its subject-matter jurisdiction over this action, and grant such other relief as the Court may deem just and proper.

Dated: June 7, 2017

WILSON SONSINI GOODRICH & ROSATI
Professional Corporation

By: *s/ David H. Reichenberg*

David H. Reichenberg
1301 Avenue of the Americas, 40th Floor
New York, New York 10019
Phone: (212) 999-5800
Fax: (212) 999-5899
Email: dreichenberg@wsgr.com

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